

Senate Bill 337

By: Senator Hudgens of the 47th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act to amend, consolidate, and supersede the several Acts incorporating the
 2 City of Colbert, approved February 14, 1950 (Ga. L. 1950, p. 2417), as amended, so as to
 3 extensively revise the city charter; to provide for incorporation, boundaries, and powers of
 4 the city; to provide for a governing authority of such city and the powers, duties, authority,
 5 election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of
 6 interest, and suspension and removal from office relative to members of such governing
 7 authority; to provide for inquiries and investigations; to provide for oaths, organization,
 8 meetings, quorum, voting, rules, and procedures; to provide for ordinances and codes; to
 9 provide for a mayor and mayor pro tempore and certain duties, powers, and other matters
 10 relative thereto; to provide for administrative affairs and responsibilities; to provide for
 11 boards, commissions, and authorities; to provide for a city attorney, a city clerk, and other
 12 personnel and matters relating thereto; to provide for rules and regulations; to provide for a
 13 municipal court and the judge or judges thereof and other matters relative to those judges;
 14 to provide for the court's jurisdiction, powers, practices, and procedures; to provide for the
 15 right of certiorari; to provide for elections; to provide for taxation, licenses, and fees; to
 16 provide for franchises, service charges, and assessments; to provide for bonded and other
 17 indebtedness; to provide for auditing, accounting, budgeting, and appropriations; to provide
 18 for city contracts and purchasing; to provide for the conveyance of property and interests
 19 therein; to provide for bonds for officials; to provide for prior ordinances and rules, pending
 20 matters, and existing personnel; to provide for penalties; to provide for definitions and
 21 construction; to redesignate certain provisions; to provide for other matters relative to the
 22 foregoing; to provide for effective dates; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 (b) The powers of this city shall be construed liberally in favor of the city. The specific
2 mention or failure to mention particular powers shall not be construed as limiting in any way
3 the powers of this city. These powers shall include, but not be limited to, the following:

4 (1) Animal regulations. To regulate and license or to prohibit the keeping or running at
5 large of animals and fowl and to provide for the impoundment of same if in violation of
6 any ordinance or lawful order; to provide for the disposition by sale, gift, or humane
7 destruction of animals and fowl when not redeemed as provided by ordinance; and to
8 provide punishment for violation of ordinances enacted under this charter;

9 (2) Appropriations and expenditures. To make appropriations for the support of the
10 government of the city; to authorize the expenditure of money for any purposes
11 authorized by this charter and for any purpose for which a municipality is authorized by
12 the laws of the State of Georgia; and to provide for the payment of expenses of the city;

13 (3) Building regulation. To regulate and to license the erection and construction of
14 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,
15 and heating and air-conditioning codes; and to regulate all housing and building trades;

16 (4) Business regulation and taxation. To levy and to provide for collection of regulatory
17 fees and taxes on privileges, occupations, trades, and professions as authorized by Title
18 48 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; to
19 permit and regulate the same; to provide for the manner and method of payment of such
20 regulatory fees and taxes; and to revoke such permits after due process for failure to pay
21 any city taxes or fees;

22 (5) Condemnation. To condemn property, inside or outside the corporate limits of the
23 city, for present or future use and for any corporate purpose deemed necessary by the
24 governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such
25 other applicable laws as are now or may hereafter be enacted;

26 (6) Contracts. To enter into contracts and agreements with other governmental entities
27 and with private persons, firms, and corporations;

28 (7) Emergencies. To establish procedures for determining and proclaiming that an
29 emergency situation exists within or outside the city and to make and carry out all
30 reasonable provisions deemed necessary to deal with or meet such an emergency for the
31 protection, safety, health, or well-being of the citizens of the city;

32 (8) Environmental protection. To protect and preserve the natural resources,
33 environment, and vital areas of the state through the preservation and improvement of air
34 quality, the restoration and maintenance of water resources, the control of erosion and
35 sedimentation, the management of solid and hazardous waste, and other necessary actions
36 for the protection of the environment;

1 (9) Fire regulations. To fix and establish fire limits and from time to time to extend,
2 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with
3 general law, relating to both fire prevention and detection and to fire fighting; and to
4 prescribe penalties and punishment for violations thereof;

5 (10) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
6 and disposal and other sanitary service charge, tax, or fee for such services as may be
7 necessary in the operation of the city from all individuals, firms, and corporations
8 residing in or doing business in the city benefiting from such services; to enforce the
9 payment of such charges, taxes, or fees; and to provide for the manner and method of
10 collecting such service charges;

11 (11) General health, safety, and welfare. To define, regulate, and prohibit any act,
12 practice, conduct, or use of property which is detrimental to health, sanitation,
13 cleanliness, welfare, and safety of the inhabitants of the city and to provide for the
14 enforcement of such standards;

15 (12) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for
16 any purpose related to powers and duties of the city and the general welfare of its
17 citizens, on such terms and conditions as the donor or grantor may impose;

18 (13) Health and sanitation. To prescribe standards of health and sanitation and to provide
19 for the enforcement of such standards;

20 (14) Jail sentences. To provide that persons given jail sentences in the municipal court
21 may work out such sentences in any public works or on the streets, roads, drains, and
22 other public property in the city; to provide for commitment of such persons to any jail;
23 or to provide for commitment of such persons to any county work camp or county jail by
24 agreement with the appropriate county officials;

25 (15) Motor vehicles. To regulate the operation of motor vehicles and exercise control
26 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
27 of the city;

28 (16) Municipal agencies and delegation of power. To create, alter, or abolish
29 departments, boards, offices, commissions, and agencies of the city and to confer upon
30 such agencies the necessary and appropriate authority for carrying out all the powers
31 conferred upon or delegated to the same;

32 (17) Municipal debts. To appropriate and borrow money for the payment of debts of the
33 city and to issue bonds for the purpose of raising revenue to carry out any project,
34 program, or venture authorized by this charter or the laws of the State of Georgia;

35 (18) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or
36 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
37 outside the property limits of the city;

- 1 (19) Municipal property protection. To provide for the preservation and protection of
2 property and equipment of the city and the administration and use of same by the public;
3 and to prescribe penalties and punishment for violations thereof;
- 4 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
5 of public utilities, including but not limited to a system of waterworks, sewers and drains,
6 sewage disposal, gas works, electric light plants, cable television and other
7 telecommunications, transportation facilities, public airports, and any other public utility;
8 and to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties and
9 to provide for the withdrawal of service for refusal or failure to pay the same;
- 10 (21) Nuisance. To define a nuisance and provide for its abatement whether on public or
11 private property;
- 12 (22) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
13 the authority of this charter and the laws of the State of Georgia;
- 14 (23) Planning and zoning. To provide comprehensive city planning for development by
15 zoning; and to provide subdivision regulation and the like as the city council deems
16 necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community;
- 17 (24) Police and fire protection. To exercise the power of arrest through duly appointed
18 police officers and to establish, operate, or contract for a police and a fire-fighting
19 agency;
- 20 (25) Public hazards; removal. To provide for the destruction and removal of any building
21 or other structure which is or may become dangerous or detrimental to the public;
- 22 (26) Public improvements. To provide for the acquisition, construction, building,
23 operation, and maintenance of public ways, parks and playgrounds, public grounds,
24 recreational facilities, cemeteries, markets and market houses, public buildings, libraries,
25 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, other
26 public utilities, public housing, airports, hospitals, terminals, docks, parking facilities, and
27 charitable, cultural, educational, recreational, conservation, sport, curative, corrective,
28 detentional, penal, and medical institutions, agencies, and facilities; and to provide any
29 other public improvements, inside or outside the corporate limits of the city; to regulate
30 the use of public improvements; and, for such purposes, property may be acquired by
31 condemnation under Title 22 of the O.C.G.A. or such other applicable laws as are now
32 or may hereafter be enacted;
- 33 (27) Public peace. To provide for the prevention and punishment of drunkenness, riots,
34 and public disturbances;
- 35 (28) Public transportation. To organize and operate or contract for such public
36 transportation systems as are deemed beneficial;

- 1 (29) Public utilities and services. To grant franchises or make contracts for or impose
2 taxes on public utilities and public service companies and to prescribe the rates, fares,
3 regulations, and standards and conditions of service applicable to the service to be
4 provided by the franchise grantee or contractor, insofar as not in conflict with valid
5 regulations of the Georgia Public Service Commission;
- 6 (30) Regulation of roadside areas. To prohibit or regulate and control the erection,
7 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any
8 and all other structures or obstructions upon or adjacent to the rights of way of streets and
9 roads or within view thereof, within or abutting the corporate limits of the city; and to
10 prescribe penalties and punishment for violation of such ordinances;
- 11 (31) Retirement. To provide and maintain a retirement plan for officers and employees
12 of the city;
- 13 (32) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade
14 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
15 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
16 walkways within the corporate limits of the city; and to grant franchises and rights of way
17 throughout the streets and roads and over the bridges and viaducts for the use of public
18 utilities; and to require real estate owners to repair and maintain in a safe condition the
19 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;
- 20 (33) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
21 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
22 and sewerage system and to levy on those to whom sewers and sewerage systems are
23 made available a sewer service fee, charge, or sewer tax for the availability or use of the
24 sewers; to provide for the manner and method of collecting such service charges and for
25 enforcing payment of the same; and to charge, impose, and collect a sewer connection fee
26 or fees to those connected with the system;
- 27 (34) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
28 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
29 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,
30 paper, and other recyclable materials and to provide for the sale of such items;
- 31 (35) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,
32 the manufacture, sale, or transportation of any intoxicating liquors, alcoholic beverages,
33 and the use of firearms; to regulate the transportation, storage, and use of combustible,
34 explosive, and inflammable materials, the use of lighting and heating equipment, and any
35 other business or situation which may be dangerous to persons or property; to regulate
36 and control the conduct of peddlers and itinerant traders, theatrical performances,

1 exhibitions, and shows of any kind, by taxation or otherwise; and to license, tax, regulate,
 2 or prohibit professional fortunetelling, palmistry, adult bookstores, and massage parlors;
 3 (36) Special assessments. To levy and provide for the collection of special assessments
 4 to cover the costs for any public improvements;
 5 (37) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation,
 6 and collection of taxes on all property subject to taxation;
 7 (38) Taxes: other. To levy and collect such other taxes as may be allowed now or in the
 8 future by law;
 9 (39) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the
 10 number of such vehicles; to require the operators thereof to be licensed; to require public
 11 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to
 12 regulate the parking of such vehicles;
 13 (40) Urban redevelopment. To organize and operate an urban redevelopment program;
 14 and
 15 (41) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,
 16 and immunities necessary or desirable to promote or protect the safety, health, peace,
 17 security, good order, comfort, convenience, or general welfare of the city and its
 18 inhabitants; and to exercise all implied powers necessary or desirable to carry into
 19 execution all powers granted in this charter as fully and completely as if such powers
 20 were fully stated in this charter; and to exercise all powers now or in the future authorized
 21 to be exercised by other municipal governments under other laws of the State of Georgia;
 22 and no listing of particular powers in this charter shall be held to be exclusive of others,
 23 nor restrictive of general words and phrases granting powers, but shall be held to be in
 24 addition to such powers unless expressly prohibited to municipalities under the
 25 Constitution or applicable laws of the State of Georgia.

26 **SECTION 1.13.**

27 Exercise of powers.

28 All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or
 29 employees shall be carried into execution as provided by this charter. If this charter makes
 30 no provision, such shall be carried into execution as provided by ordinance or as provided
 31 by pertinent laws of the State of Georgia.

1 remaining shall appoint a successor for the duration of the suspension. If the suspension
2 becomes permanent, then the office shall become vacant and shall be filled for the remainder
3 of the unexpired term, if any, as provided for in this charter.

4 **SECTION 2.13.**

5 Compensation and expenses.

6 The mayor and councilmembers shall receive compensation and expenses for their services
7 as provided by ordinance.

8 **SECTION 2.14.**

9 Holding other office;

10 voting when personally interested.

11 (a) Elected and appointed officers of the city are trustees and servants of the residents of the
12 city and shall act in a fiduciary capacity for the benefit of such residents.

13 (b) Except as authorized by law, no councilmember nor the mayor shall hold any other city
14 office or city employment during the term for which that person was elected.

15 (c) No councilmember nor the mayor shall vote upon, sign, or veto any ordinance,
16 resolution, contract, or other matter in which that person is financially interested.

17 **SECTION 2.15.**

18 Inquiries and investigations.

19 Following the adoption of an authorizing resolution, the city council may make inquiries and
20 investigations into the affairs of the city and conduct of any department, office, or agency
21 thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and
22 require the production of evidence. Any person who fails or refuses to obey a lawful order
23 issued in the exercise of these powers by the city council shall be punished as may be
24 provided by ordinance.

25 **SECTION 2.16.**

26 General power and authority of the city council.

27 Except as otherwise provided by law or this charter, the city council shall be vested with all
28 the powers of government of this city.

SECTION 2.17.

Organizational meetings.

The city council shall hold an organizational meeting on the first Monday of January in each year. The meeting shall be called to order by the city clerk and the oath of office shall be administered to the newly elected members as follows:

'I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) of this city and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and the United States of America.'

SECTION 2.18.

Meetings.

(a) The city council shall hold regular meetings at such times and places as shall be prescribed by ordinance.

(b) Special meetings of the city council may be held on call of the mayor or three members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.

(c) All meetings of the city council shall be public to the extent required by law, and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Code Section 50-14-1 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted.

SECTION 2.19.

Rules of procedure.

(a) The city council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping of a journal of its proceedings, which shall be a public record.

(b) All committees and committee chairpersons and officers of the city council shall be appointed by the mayor and shall serve at the pleasure of the mayor. The mayor shall have the power to appoint new members to any committee at any time.

SECTION 2.20.

Quorum; voting.

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2
3 Three councilmembers shall constitute a quorum and shall be authorized to transact business
4 of the city council. Voting on the adoption of ordinances shall be by voice vote and the vote
5 shall be recorded in the journal, but any councilmember shall have the right to request a
6 roll-call vote and such vote shall be recorded in the journal. Except as otherwise provided
7 in this charter, the affirmative vote of three councilmembers or in case of a tie two
8 councilmembers and the mayor shall be required for the adoption of any ordinance,
9 resolution, or motion. An abstention shall be counted as an affirmative vote. On all questions
10 before the city council, the mayor, or mayor pro tempore if he or she be presiding, shall be
11 entitled to vote only in the case of a tie.

SECTION 2.21.

Ordinance form; procedures.

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14 (a) Every proposed ordinance should be introduced in writing and in the form required for
15 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
16 enacting clause shall be 'It is hereby ordained by the governing authority of the City of
17 Colbert...' and every ordinance shall so begin.

18 (b) An ordinance may be introduced by any councilmember and be read at a regular or
19 special meeting of the city council. Ordinances shall be considered and adopted or rejected
20 by the city council in accordance with the rules which it shall establish. Upon introduction
21 of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to
22 each councilmember and shall file a reasonable number of copies in the office of the clerk
23 and at such other public places as the city council may designate.

SECTION 2.22.

Action requiring an ordinance.

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26 Acts of the city council which have the force and effect of law shall be enacted by ordinance.

SECTION 2.23.

Emergencies.

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28
29 (a) To meet a public emergency affecting life, health, property, or public peace, the city
30 council may convene on call of the mayor or three councilmembers and may promptly adopt
31 an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a
32 franchise; regulate the rate charged by any public utility for its services; or authorize the
33 borrowing of money except for loans to be repaid within 30 days. An emergency ordinance
34 shall be introduced in the form prescribed for ordinances generally, except that it shall be

1 plainly designated as an emergency ordinance and shall contain, after the enacting clause,
 2 a declaration stating that an emergency exists and describing the emergency in clear and
 3 specific terms. An emergency ordinance may be adopted, with or without amendment, or
 4 rejected at the meeting at which it is introduced, but the affirmative vote of at least three
 5 councilmembers or in case of a tie two councilmembers and the mayor shall be required for
 6 adoption. It shall become effective upon adoption or at such later time as it may specify.
 7 Every emergency ordinance shall automatically stand repealed 30 days following the date
 8 upon which it was adopted, but this shall not prevent reenactment of the ordinance in the
 9 manner specified in this section if the emergency still exists. An emergency ordinance may
 10 also be repealed by adoption of a repealing ordinance in the same manner specified in this
 11 section for adoption of emergency ordinances.

12 (b) Such meetings shall be open to the public to the extent required by law and notice to the
 13 public of emergency meetings shall be made as fully as is reasonably possible in accordance
 14 with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as are or may
 15 hereafter be enacted.

16 **SECTION 2.24.**

17 Codes of technical regulations.

18 (a) The city council may adopt any standard code of technical regulations by reference
 19 thereto in an adopting ordinance. The procedure and requirements governing such adopting
 20 ordinance shall be as prescribed for ordinances generally except that: (1) the requirements
 21 of subsection (b) of Section 2.21 of this charter for distribution and filing of copies of the
 22 ordinance shall be construed to include copies of any code of technical regulations, as well
 23 as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as
 24 well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to
 25 Section 2.25 of this charter.

26 (b) Copies of any adopted code of technical regulations shall be made available by the clerk
 27 for inspection by the public.

28 **SECTION 2.25.**

29 Signing; authenticating;
 30 recording; codification; printing.

31 (a) The clerk shall authenticate by the clerk's signature and record in full in a properly
 32 indexed book kept for that purpose all ordinances adopted by the city council.

33 (b) The city council shall provide for the preparation of a general codification of all the
 34 ordinances of the city having the force and effect of law. The general codification shall be
 35 adopted by the city council by ordinance and shall be published promptly, together with all

1 amendments thereto and such codes of technical regulations and other rules and regulations
2 as the city council may specify. This compilation shall be known and cited officially as 'The
3 Code of the City of Colbert, Georgia.' Copies of the code shall be furnished to all officers,
4 departments, and agencies of the city and made available for purchase by the public at a
5 reasonable price as fixed by the city council.

6 (c) The city council shall cause each ordinance and each amendment to this charter to be
7 printed promptly following its adoption, and the printed ordinances and charter amendments
8 shall be made available for purchase by the public at reasonable prices to be fixed by the city
9 council. Following publication of the first code under this charter and at all times thereafter,
10 the ordinances and charter amendments shall be printed in substantially the same style as the
11 code currently in effect and shall be suitable in form for incorporation therein. The city
12 council shall make such further arrangements as deemed desirable with reproduction and
13 distribution of any current changes in or additions to codes of technical regulations and other
14 rules and regulations included in the code.

15 **SECTION 2.26.**

16 Election of mayor; forfeiture; compensation.

17 The mayor shall be elected and serve for a term of two years and until the mayor's successor
18 is elected and qualified. The mayor shall be a qualified elector of this city and shall have
19 been a resident of this city for 12 months immediately preceding the mayor's election. The
20 mayor shall continue to reside in this city during the period of the mayor's service. The
21 mayor shall forfeit that office on the same grounds and under the same procedure as for
22 councilmembers. The compensation of the mayor shall be established in the same manner
23 as for councilmembers.

24 **SECTION 2.27.**

25 Chief executive officer; delegation of powers.

26 The mayor shall be the chief executive of this city. The mayor shall possess all of the
27 executive and administrative power granted to the city under the Constitution and laws of the
28 State of Georgia, and all the executive and administrative powers contained in this charter.

29 **SECTION 2.28.**

30 Powers and duties of mayor.

31 As the chief executive of this city, the mayor shall:

32 (1) See that all laws and ordinances of the city are faithfully executed;

33 (2) Appoint and remove all officers, department heads, and employees of the city except
34 as otherwise provided in this charter;

- 1 (3) Exercise supervision over all executive and administrative work of the city and
2 provide for the coordination of administrative activities;
- 3 (4) Prepare and submit to the councilmembers a recommended operating budget and
4 capital budget;
- 5 (5) Submit to the councilmembers at least once a year a statement covering the financial
6 conditions of the city and from time to time such other information as the
7 councilmembers may request;
- 8 (6) Recommend to the councilmembers such measures relative to the affairs of the city,
9 improvement of the government, and promotion of the welfare of its inhabitants as the
10 mayor may deem expedient;
- 11 (7) Call special meetings of the councilmembers as provided for in subsection (b) of
12 Section 2.18 of this charter;
- 13 (8) Approve or disapprove ordinances as provided in Section 2.29 of this charter;
- 14 (9) Provide for an annual audit of all accounts of the city;
- 15 (10) Require any department or agency of the city to submit written reports whenever
16 the mayor deems it expedient;
- 17 (11) Perform such other duties as may be required by law, this charter, or ordinance;
- 18 (12) Participate in the discussion of all matters brought before the councilmembers; and
- 19 (13) Sign as a matter of course all written contracts, ordinances, and other instruments
20 executed by the city which by law are required to be in writing.

21 **SECTION 2.29.**

22 Submission of ordinances to the mayor; veto power.

- 23 (a) Every ordinance adopted by the councilmembers shall be presented promptly by the city
24 clerk to the mayor after its adoption.
- 25 (b) The mayor, within ten calendar days of receipt of an ordinance, shall return it to the city
26 clerk with or without the mayor's approval or with the mayor's disapproval. If the ordinance
27 has been approved by the mayor, it shall become law upon its return to the city clerk; if the
28 ordinance is neither approved nor disapproved, it shall become law at 12:00 Noon on the
29 tenth calendar day after its adoption; if the ordinance is disapproved, the mayor shall submit
30 to the councilmembers through the city clerk a written statement of the reasons for the veto.
31 The city clerk shall record upon the ordinance the date of its delivery to and receipt from the
32 mayor.
- 33 (c) Ordinances vetoed by the mayor shall be presented by the city clerk to the
34 councilmembers at their next meeting. If the councilmembers then or at their next meeting
35 adopt the ordinance by an affirmative vote of three members, it shall become law.

1 (d) The mayor may disapprove or reduce any item or items of appropriation in any
 2 ordinance. The approved part or parts of any ordinance making appropriations shall become
 3 law, and the part or parts disapproved shall not become law unless subsequently passed by
 4 the councilmembers over the mayor's veto as provided in this section. The reduced part or
 5 parts shall be presented to the councilmembers as though disapproved and shall not become
 6 law unless overridden by the councilmembers as provided in subsection (c) of this section.

7 **SECTION 2.30.**

8 Mayor pro tempore; selection; duties.

9 By a majority vote, the councilmembers shall elect annually at its organizational meeting a
 10 councilmember to serve as mayor pro tempore. The mayor pro tempore shall preside at all
 11 meetings of the councilmembers and shall assume the duties and powers of the mayor upon
 12 the mayor's physical or mental disability or absence. The councilmembers by a majority
 13 vote shall elect a new presiding officer from among its members for any period in which the
 14 mayor pro tempore is disabled, absent, or acting as mayor. Any such absence or disability
 15 shall be declared by majority vote of all councilmembers.

16 **ARTICLE III**

17 **ADMINISTRATIVE AFFAIRS**

18 **SECTION 3.10.**

19 Administrative and service departments.

20 (a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe
 21 the functions or duties and establish, abolish, alter, consolidate, or leave vacant all
 22 nonelective offices, positions of employment, departments, and agencies of the city as
 23 necessary for the proper administration of the affairs and government of this city.

24 (b) Except as otherwise provided by this charter or by law, the directors of departments and
 25 other appointed officers of the city shall be appointed solely on the basis of their respective
 26 administrative and professional qualifications.

27 (c) All appointed officers and directors of departments shall receive such compensation as
 28 prescribed by ordinance.

29 (d) There shall be a director of each department or agency who shall be its principal officer.
 30 Each director shall, subject to the direction and supervision of the mayor, be responsible for
 31 the administration and direction of the affairs and operations of that director's department
 32 or agency.

33 (e) All appointed officers and directors under the supervision of the mayor shall be
 34 nominated by the mayor with confirmation of appointment by the city council. All appointed

1 officers and directors shall be employees at will and subject to removal or suspension at any
2 time by the mayor unless otherwise provided by law or ordinance.

3 **SECTION 3.11.**

4 Boards, commissions, and authorities.

5 (a) The city council shall create by ordinance such boards, commissions, and authorities to
6 fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems
7 necessary and shall by ordinance establish the composition, period of existence, duties, and
8 powers thereof.

9 (b) All members of boards, commissions, and authorities of the city shall be appointed by
10 the mayor for such terms of office and in such manner as shall be provided by ordinance,
11 except where other appointing authority, terms of office, or manner of appointment is
12 prescribed by this charter or by law.

13 (c) The city council by ordinance may provide for the compensation and reimbursement for
14 actual and necessary expenses of the members of any board, commission, or authority.

15 (d) Except as otherwise provided by charter or by law, no member of any board,
16 commission, or authority shall hold any elective office in the city.

17 (e) Any vacancy on a board, commission, or authority of the city shall be filled for the
18 unexpired term in the manner prescribed in this charter for original appointment, except as
19 otherwise provided by this charter or by law.

20 (f) No member of a board, commission, or authority shall assume office until that person has
21 executed and filed with the clerk of the city an oath obligating that person to perform
22 faithfully and impartially the duties of that person's office, such oath shall be prescribed by
23 ordinance and administered by the mayor.

24 (g) All members of boards, commissions, or authorities of the city serve at will and may be
25 removed at any time by the mayor unless otherwise provided by law.

26 (h) Except as otherwise provided by this charter or by law, each board, commission, or
27 authority of the city shall elect one of its members as chairperson and one member as vice
28 chairperson and may elect as its secretary one of its own members or may appoint as
29 secretary an employee of the city. Each board, commission, or authority of the city
30 government may establish such bylaws, rules, and regulations, not inconsistent with this
31 charter, ordinances of the city, or law, as it deems appropriate and necessary for the
32 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
33 regulations shall be filed with the clerk of the city.

SECTION 3.12.

City attorney.

The mayor shall appoint a city attorney, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the city council as directed; and shall advise the councilmembers, mayor, and other officers and employees of the city concerning legal aspects of the city's affairs; provided, however, that in the event of a conflict, the city attorney shall advise the mayor. The city attorney shall perform such other duties as may be required by virtue of such person's position as city attorney.

SECTION 3.13.

City clerk.

The mayor shall appoint a city clerk who shall not be a councilmember. The city clerk shall be custodian of the official city seal and city records; maintain city council records required by this charter; and perform such other duties as may be required by the city council.

SECTION 3.14.

Position classification and pay plans.

The mayor shall be responsible for the preparation of a position classification and pay plan which shall be submitted to the city council for approval. Such plan may apply to all employees of the city and any of its agencies, departments, boards, commissions, or authorities. When a pay plan has been adopted, the city council shall not increase or decrease the salary range applicable to any position except by amendment of such pay plan. For purposes of this section, all elected and appointed city officials are not city employees.

SECTION 3.15.

Personnel policies.

All employees serve at will and may be removed from office at any time unless otherwise provided by ordinance.

1 (c) The municipal court may fix punishment for offenses within its jurisdiction not
 2 exceeding a fine of \$1,000.00 or imprisonment for six months or both such fine and
 3 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as
 4 now or hereafter provided by law.

5 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost
 6 of operation and shall be entitled to reimbursement of the cost of meals, transportation, and
 7 caretaking of prisoners bound over to superior courts for violations of state law.

8 (e) The municipal court shall have authority to establish bail and recognizances to ensure
 9 the presence of those charged with violations before such court and shall have discretionary
 10 authority to accept cash or personal or real property as surety for the appearance of persons
 11 charged with violations. Whenever any person shall give bail for that person's appearance
 12 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by the
 13 judge presiding at such time and an execution issued thereon by serving the defendant and
 14 the defendant's sureties with a rule nisi at least two days before a hearing on the rule nisi.
 15 In the event that cash or property is accepted in lieu of bond for security for the appearance
 16 of a defendant at trial, and if such defendant fails to appear at the time and place fixed for
 17 trial, the cash so deposited shall be on order of the judge declared forfeited to the city, or the
 18 property so deposited shall have a lien against it for the value forfeited which lien shall be
 19 enforceable in the same manner and to the same extent as a lien for city property taxes.

20 (f) The municipal court shall have the same authority as superior courts to compel the
 21 production of evidence in the possession of any party; to enforce obedience to its orders,
 22 judgments, and sentences; and to administer such oaths as are necessary.

23 (g) The municipal court may compel the presence of all parties necessary to a proper
 24 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be
 25 served as executed by any officer as authorized by this charter or by law.

26 (h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of
 27 persons charged with offenses against any ordinance of the city, and each judge of the
 28 municipal court shall have the same authority as a magistrate of the state to issue warrants
 29 for offenses against state laws committed within the city.

30 **SECTION 4.14.**

31 **Certiorari.**

32 The right of certiorari from the decision and judgment of the municipal court shall exist in
 33 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
 34 the sanction of a judge of the Superior Court of Madison County under the laws of the State
 35 of Georgia regulating the granting and issuance of writs of certiorari.

SECTION 4.15.

Rules for court.

With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the city council may adopt in part or in toto the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to such proceedings.

ARTICLE V**ELECTIONS AND REMOVAL****SECTION 5.10.**

Applicability of general law.

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' as now or hereafter amended.

SECTION 5.11.

Regular elections; time for holding.

(a) There shall be a municipal general election annually on the Tuesday next following the first Monday in November.

(b) At the general municipal election in 2005 and each odd-numbered year thereafter, there shall be elected the mayor and two councilmembers to succeed those persons whose terms of office expire in January next following such election. At the general municipal election in 2006 and each even-numbered year thereafter, there shall be elected two councilmembers to succeed those persons whose terms expire in January next following such election.

SECTION 5.12.

Nonpartisan elections.

Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party designations.

SECTION 5.13.

Election by majority vote.

The mayor and councilmembers shall be elected by a majority vote of the votes cast for each position.

SECTION 6.13.

Licenses; permits; fees.

The city council by ordinance shall have the power to require businesses or practitioners doing business in this city to obtain a permit for such activity from the city and pay a regulatory fee for such permit as provided by general law. Such fees shall reflect the total cost to the city of regulating the activity and, if unpaid, shall be collected as provided in Section 6.18 of this charter.

SECTION 6.14.

Franchises.

(a) The city council shall have the power to grant franchises for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The city council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The city council shall provide for the registration of all franchises with the city clerk in a registration book kept by the city clerk. The city council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(b) If no franchise agreement is in effect, the city council has the authority to impose a tax on gross receipts for the use of this city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations.

SECTION 6.15.

Service charges.

The city council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, sanitary and health services, or any other services provided or made available within and outside the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.21.

Short-term loans.

The city may obtain short-term loans and must repay such loans not later than December 31 of each year, unless otherwise provided by law.

SECTION 6.22.

Lease-purchase contracts.

The city may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies, provided the contract terminates without further obligation on the part of the municipality at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Code Section 36-60-13 of the O.C.G.A., or other such applicable laws as are or may hereafter be enacted.

SECTION 6.23.

Fiscal year.

The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency, and activity of the city government.

SECTION 6.24.

Budget ordinance.

The city council shall provide an ordinance on the procedures and requirements for the preparation and execution of an annual operating budget, a capital improvement plan, and a capital budget, including requirements as to the scope, content, and form of such budgets and plans. The city council shall also comply with the budgeting and auditing provisions of Chapter 81 of Title 36 of the O.C.G.A.

SECTION 6.25.

Operating budget.

On or before a date fixed by the city council but not later than 60 days prior to the beginning of each fiscal year, the mayor shall submit to the city council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and other pertinent comments and information. The operating

1 budget and the capital budget provided for in Section 6.29 of this charter, the budget
2 message, and all supporting documents shall be filed in the office of the city clerk and shall
3 be open to public inspection.

4 **SECTION 6.26.**

5 Action by city council on budget.

6 (a) The councilmembers may amend the operating budget proposed by the mayor, except
7 that the budget as finally amended and adopted must provide for all expenditures required
8 by state law or by other provisions of this charter and for all debt service requirements for
9 the ensuing fiscal year. The total appropriations from any fund shall not exceed the
10 estimated fund balance, reserves, and revenues.

11 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
12 year not later than the last day of each fiscal year. If the city council fails to adopt the budget
13 by said date, the amounts appropriated for operation for the then current fiscal year shall be
14 deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
15 prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal
16 year. Adoption of the budget shall take the form of an appropriations ordinance setting out
17 the estimated revenues in detail by sources and making appropriations according to fund and
18 by organizational unit, purpose, or activity as set out in the budget preparation ordinance
19 adopted pursuant to Section 6.24 of this charter.

20 (c) The amount set out in the adopted operating budget for each organizational unit shall
21 constitute the annual appropriation for such, and no expenditure shall be made or
22 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
23 or allotment thereof to which it is chargeable.

24 **SECTION 6.27.**

25 Levy of taxes.

26 The city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates
27 set by such ordinance shall be such that reasonable estimates of revenues from such levy
28 shall at least be sufficient, together with other anticipated revenues, fund balances, and
29 applicable reserves, to equal the total amount appropriated for each of the several funds set
30 forth in the annual operating budget for defraying the expenses of the general government
31 of this city.

1 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
2 course, is signed by the city attorney to indicate such drafting or review; and

3 (3) It is made or authorized by the city council and such approval is entered in the city
4 council journal of proceedings pursuant to Section 2.19 of this charter.

5 **SECTION 6.32.**

6 Purchasing.

7 The city council shall by ordinance prescribe procedures for a system of centralized
8 purchasing for the city.

9 **SECTION 6.33.**

10 Sale and lease of property.

11 (a) The city council may sell and convey or lease any real or personal property owned or
12 held by the city for governmental or other purposes as now or hereafter provided by law.

13 (b) The city council may quitclaim any rights it may have in property not needed for public
14 purposes upon report by the mayor and adoption of a resolution, both finding that the
15 property is not needed for public or other purposes and that the interest of the city has no
16 readily ascertainable monetary value.

17 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
18 of the city a small parcel or tract of land is cut off or separated by such work from a larger
19 tract or boundary of land owned by the city, the city council may authorize the mayor to sell
20 and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
21 property owner or owners where such sale and conveyance facilitates the highest and best
22 use of the abutting owner's property. Included in the sales contract shall be a provision for
23 the rights of way of said street, avenue, alley, or public place. Each abutting property owner
24 shall be notified of the availability of the property and given the opportunity to purchase said
25 property under such terms and conditions as set out by ordinance. All deeds and
26 conveyances heretofore and hereafter so executed and delivered shall convey all title and
27 interest the city has in such property, notwithstanding the fact that no public sale after
28 advertisement was or is hereafter made.

1

SECTION 4.

2 All laws and parts of laws in conflict with this Act are repealed.